

Application/Control Number: 09/781,445
Art Unit: 2664

Docket No.: 112063CIP

REMARKS

Reconsideration and allowance are requested. Claims 1 - 18 have been examined.

None of claims 1 - 18 is amended. New claims 19 - 22 are presented for examination.

Regarding the prior art listed in Applicants IDS, Applicants direct the Examiner to the parent case file wrapper (Application No. 09/480,676) and the file wrapper for Patent No. 6,052,954 issued April 18, 2000, which should contain a copy of each of the references cited. Applicants request that the Examiner review these references and return an initialed 1449 form (a copy of previously filed IDS is attached). Applicants will provide the Examiner with copies of the references if the copies provided in the parent case are unavailable.

Rejection of Claims 1, 2, 4 - 8, 10, 11 and 13 - 17 Under Section 102

The Examiner rejects claims 1, 2, 4 - 8, 10, 11 and 13 - 17 under Section 102 as being anticipated by U.S. Publication No. 2003/0156570 to Alamouti et al. ("Alamouti et al."). Applicants traverse this rejection and submit that Alamouti et al. fail to disclose each limitation of the claims.

We turn first to claim 1. This claim recites a wireless communication system that includes, at the transmitter, means for selecting a channel based on channel performance at the receiver for each of the at least two transmission channels. The channel performance is based on a combining technique that is different from the interference suppression technique. This claim limitation that requires that the channel performance be based on a combining technique that differs from the interference suppression technique is not taught by Alamouti et al.

The Examiner equates paragraphs [0223] and [0268] as teaching this limitation. However, as we shall see, these portions of Alamouti et al. only discuss a way of selecting an optimal channel for transmission but do not teach nor suggest that the channel performance be based on a combining technique that differs from the interference suppression technique. Paragraph [0223] of the reference states:

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In order for the best channel to be chosen, the RUs must make measurements on some number of channels and report the results to the base station for use in selecting the best channel for an RU when a link is established. These measurements include RSSI and SINR. Table 3.1 shows a gross look at how received signal strength indicator (RSSI) and signal to interference ratio (SINR) information could be used to assign channels to incoming RUs.

An "RU" is a remote station as defined by Alamouti et al. They are basically stating that the remote station measures the channels, reports on the results, and selects the best channel for communication when a link is established. Table 3.1 shows how high and low combinations of the RSSI status and SINR status are interpreted for channel selection. There is simply no mention or suggestion of any requirement that the combining technique differs from the interference suppression technique. Therefore, paragraph [0223] does not disclose this claim limitation.

Paragraph [0268] of Alamouti et al. states the following:

Diversity is a communication receiver technique that exploits the random nature of radio propagation by finding highly uncorrelated signal paths for communication. Diversity decisions are made by the receiver. If one radio path undergoes a deep fade, another independent path may have a strong signal. By having more than one path to select from, both the instantaneous and average signal to noise ratios at the receiver may be improved.

This paragraph merely describes how a receiver employs diversity decisions to select one radio path from among a group of radio paths to improve signal reception. Certainly, Applicants submit, paragraph [0268] does not relate to nor teach anything regarding a combining technique inasmuch as the diversity concept requires finding "highly uncorrelated signal paths" from which a strong signal may be selected. Furthermore, there is no mention of any interference suppression. Therefore, Applicants respectfully submit that paragraph [0268] also does not support the Examiner's assertion that Alamouti et al. teach that the channel performance be based on a combining technique that differs from the interference suppression technique. For these reasons, Applicants respectfully submit that claim 1 is patentable and in condition for allowance.

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Claims 2 and 4 - 8 each depend from claim 1 and recite further limitations therefrom. Therefore, each of these claim inherit the same limitation not taught by Alamouti et al. discussed above. For this reason, Applicants submit that claims 2 and 4 - 8 are patentable and in condition for allowance.

Claim 10 recites a method of wireless communication between a transmitter and a receiver. The last step of this claim requires selecting a transmission channel at the transmitter based on channel performance at the receiver for each of the at least two transmission channels wherein the channel performance is based on a combining technique different from the interference suppression technique. Therefore, the arguments set forth above apply equally to claim 10. For this reason, Applicants submit that claim 10 and dependent claims 11 and 13 - 17 are patentable and in condition for allowance.

Rejection of Claims 3, 9, 12 and 13 Under Section 103(a)

The Examiner rejects claims 3 and 12 under Section 103(a) as being unpatentable over Alamouti et al. in view of U.S. Patent No. 6,415,149 to Bevan et al. ("Bevan et al."). Further, the Examiner rejects claims 9 and 18 under section 103(a) as being unpatentable over Alamouti et al. in view of U.S. Publication No. 2002/0105928 to Kapoor et al. ("Kapoor et al.").

The Alamouti et al. reference used to reject these claims under Section 103(a) cannot be used to preclude patentability of these claims as applied under Section 102(e) because the subject matter of the Alamouti et al. reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The Alamouti et al. reference is owned by AT&T Wireless Services. The parent case to Alamouti et al. (Application No. 09/294,174, now Pat. No. 6,560,209) is also assigned to AT&T Wireless Services as is shown in the assignee data on the patent. It is a matter of public record that AT&T Corp. purchased McCaw Cellular in 1994 and renamed the cellular

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carrier AT&T Wireless Services. Appendix A attached hereto includes a copy of the Press Release from AT&T that includes both the year of the acquisition and the date of the spinoff of AT&T Wireless Services in July, 2001.

As a subsidiary of AT&T Corp., AT&T Wireless Services' patents and patent applications were owned by AT&T Corp. The "time the invention was made" of the invention claimed in the present patent application occurred while AT&T Wireless Services was owned by AT&T Corp. The present case is a CIP of Application No. 09/480,676 which was filed January 11, 2000. The '676 application is a divisional of patent Application No. 08/846,712 filed on 04/30/1997 (now patent No. 6,052,954 issued April 18, 2000). The filing date of the present application is February 13, 2001. Each of the dates falls within the time period when AT&T Wireless Services was owned by AT&T Corp.

The assignment recordation to AT&T Corp. for the present case is at Reel/Frame: 011594/0384. The assignment recordation to AT&T Corp. for the parent case (App. No. 09/480,676) is at Reel/Frame: 8528/0757; and the '954 patent shows its assignee as AT&T Corp. Therefore, Applicants submit that under 35 U.S.C. § 103(c), the Alamouti et al. reference cannot be used to reject the claims. For this reason, Applicants submit that claims 3, 9, 12 and 13 are patentable and in condition for allowance.

New Claims 19 - 22

Applicants present new claims 19 - 22. These claims provide respective receiver-based and transmission-based claims. Applicants note that new claims 19 - 22 each contain the limitation discussed above regarding the channel performance being based on a combining technique different from the interference suppression technique. Therefore, Applicants submit that these claims are patentable as well.

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CONCLUSION

Having addressed the rejection of claims, Applicants respectfully submit that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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APPENDIX A
AT&T PRESS RELEASE

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**AT&T**

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News Release

FOR RELEASE MONDAY, JULY 9, 2001

AT&T Wireless Is Separate, Independently-Traded Company Following Split-off From AT&T

Redmond, WA -- AT&T Wireless (NYSE: AWE) announced today that its split-off from AT&T was effective at 9:00 a.m. EDT and it will now be a separate, independently-traded company. The AT&T Wireless common stock will trade on the New York Stock Exchange with the ticker symbol AWE.

"It's an exciting day for both AT&T Wireless and AT&T," said John D. Zeglis, chairman and CEO of AT&T Wireless. "Now the company that invented wireless telephony more than a half-century ago splits us off, and the timing couldn't be better. AT&T Wireless enters a growing market as an industry leader.

"We've prepared and we're ready on all fronts," he added. "Our split-off is great news for customers. As an independent company, we expect to have increased operational agility, more efficient deployment of resources and enhanced customer responsiveness.

"Our goal is to be the preeminent wireless carrier in North America," said Zeglis. "Mobile communications are quickly fusing with the Internet enabling us to take our customers to places where they have only just begun to imagine. We envision a world where our customers are liberated and their lives enriched by untethered access to all the world's people and all the world's information, no matter where they stand on the face of the earth."

To realize that vision, the company is focused on executing its technology strategy. AT&T Wireless is committed to deploying the most-widely accepted next generation, or 3G technology -- the global-standard known as UMTS. This will follow its rollout of GSM/GPRS, or 2.5G technology, this year and next.

AT&T Wireless again noted that it currently has the spectrum capacity it needs to effectively execute its planned migration to GSM. And, with partners and affiliates, AT&T Wireless has enough spectrum capacity to take the company all the way to full 3G (UMTS) in more than 70 of the top U.S. markets.

With the split-off complete, AT&T Wireless is now the largest independently-traded wireless company in the U.S. with 15.7 million consolidated subscribers (as of 3/31/01). For 2000, the company reported \$10.4 billion in consolidated revenues. AT&T Wireless also begins trading today as one of America's most widely-held companies with nearly five million shareowners and is in the Standard & Poor's 500 Index.

The company expects approximately 2.53 billion of its common shares to be outstanding.

Investor Information About the Split-Off

AT&T News Release, 2001-07-09,

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AT&T executed the split-off in two steps. First, AT&T redeemed all of the outstanding shares of AT&T Wireless Group tracking stock in exchange for shares of the new AT&T Wireless common stock. Second, AT&T distributed the remaining shares of AT&T Wireless common stock to holders of AT&T common stock, less approximately \$3 billion, or about 7.3 percent, that AT&T is retaining.

In the first step, holders of AT&T Wireless Group tracking stock received one share of AT&T Wireless common stock in exchange for every share AT&T Wireless Group tracking stock held. In other words, tracking stock holders received the new common stock on a one-for-one redemption basis.

In the second step, AT&T distributed to AT&T common stockholders .3218 of a share of AT&T Wireless common stock for each share of AT&T common stock held. The record date to be eligible for this distribution was close-of-business June 22, 2001. AT&T distributed approximately 1.14 billion shares of AT&T Wireless common stock to eligible AT&T common stockholders.

Additional information about the split-off, share redemption and distribution, is available on the Internet at www.att.com/ir.

The foregoing are "forward-looking statements" which are based on management's beliefs as well as on a number of assumptions concerning future events made by and information currently available to management.

Readers are cautioned not to put undue reliance on such forward-looking statements, which are not a guarantee of performance and are subject to a number of uncertainties and other factors, many of which are outside AT&T Wireless' control, that could cause actual results to differ materially from such statements.

For a more detailed description of the factors that could cause such a difference, please see AT&T Wireless' filings with the Securities and Exchange Commission.

AT&T Wireless disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise

AT&T Wireless

At-A-Glance

Split-off	At Announcement	At Announcement
	McCaw acquisition	AWE tracking
	(8/16/93)	stock offering (12/6/99)
(7/9/01)		from AT&T
Revenues	\$2.2 b (1993)	\$7.6 b (1999)
\$10.4 b (2000)		
Customers	3.9 million	9.6 million
15.7 million		

- AT&T Wireless is the largest independently-traded wireless company

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in U.S.

- 15.7 million consolidated subscribers (as of 3/31/01)
- Year-end 2000 consolidated revenues of \$10.4 billion
- Operates one of the largest U.S. digital wireless networks
- With partners and affiliates, hold licenses covering 98 percent of U.S. population
- Offers AT&T Wireless products and services at more than 26,000 shopping locations in the U.S.
- Offers fixed wireless services in Los Angeles, San Diego, Dallas/Fort Worth, Houston, Las Vegas, Anchorage, Oklahoma City and Tulsa.
- Owns minority interests in wireless carriers in Canada, Czech Republic, India, Indonesia, Slovakia and Taiwan.

Milestones

- In 1947, AT&T Bell Laboratories invents wireless (cellular) phone service
- In 1984, AT&T builds the first cellular systems in Chicago and Washington, D.C.
- In 1990, AT&T Wireless (then McCaw Cellular) introduces SS7 signaling, allowing the creation of the North American Cellular Network and making national automatic roaming possible for wireless customers
- In 1993, AT&T Wireless (McCaw Cellular) develops nation's first digital packet data technology allowing for wireless connectivity for personal computer users
- In 1994, AT&T acquires McCaw Cellular for \$11.5 billion
- In 1997, AT&T Wireless introduces first web-based wireless phone for businesses
- In 1998, AT&T Wireless transforms industry with AT&T Digital One Rate offer
- In 2000, AT&T Wireless begins trading as a tracking stock raising \$10.6 billion
- In 2000, AT&T Wireless announces commitment to introduce GSM and UMTS technology, and in a strategic alliance with NNT DoCoMo, establishes mobile multimedia subsidiary
- In 2001, AT&T Wireless completes split-off from AT&T

About AT&T

For more than 125 years, AT&T (NYSE "T") has been known for unparalleled quality and reliability in communications. Backed by the research and development capabilities of AT&T Labs, the company is a global leader in local, long distance, Internet and transaction-based voice and

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data services.

AT&T 'Safe Harbor'

The foregoing contains "forward-looking statements" which are based on management's beliefs as well as on a number of assumptions concerning future events made by and information currently available to management. Readers are cautioned not to put undue reliance on such forward-looking statements, which are not a guarantee of performance and are subject to a number of uncertainties and other factors, many of which are outside AT&T's control, that could cause actual results to differ materially from such statements. These risk factors include the impact of increasing competition, continued capacity oversupply, regulatory uncertainty and the effects of technological substitution, among other risks. For a more detailed description of the factors that could cause such a difference, please see AT&T's 10-K, 10-Q, 8-K and other filings with the Securities and Exchange Commission. AT&T disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. This information is presented solely to provide additional information to further understand the results of AT&T.

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